UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RYAN M. KOHANSBY,

Plaintiff,

v.

CAROLYN COLVIN, Acting Commissioner of Social Security,

Defendant.

CASE NO. C13-5653 BHS

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation ("R&R") of the Honorable J. Richard Creatura, United States Magistrate Judge (Dkt. 26), and Plaintiff Ryan Kohansby's ("Kohansby") objections to the R&R (Dkt. 27).

On July 18, 2014, Judge Creatura issued the R&R recommending that the Court affirm the Administrative Law Judge's ("ALJ") decision that Kohansby is not disabled. Dkt. 26. On August 1, 2014, Kohansby filed objections. Dkt. 27. On August 15, 2014, the Government responded. Dkt. 28. On August 21, 2014, Kohansby replied. Dkt. 29.

The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or

modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

In this case, Kohansby objects that the additional evidence from Dr. Thomas Gritzka undermined the ALJ's opinion and the sit/stand option was not sufficiently specific. First, Dr. Gritzka submitted an addendum to his original medical opinion after the ALJ rendered her decision. *See* Tr. 575–576. "[T]he district court must consider [new evidence] in determining whether the [ALJ's] decision is supported by substantial evidence." *Brewes v. Commissioner of Social Sec. Admin.*, 682 F.3d 1157, 1160 (9th Cir. 2012). While Dr. Gritzka's addendum counters some of the ALJ's reasons for giving his original opinion little weight, the ALJ's decision is still supported by substantial evidence. The ALJ's decision references significant medical evidence by multiple doctors to support the conclusion that Kohansby is able to "perform at least simple, repetitive, routine tasks in a predictable work environment." Tr. 27–31. Therefore, the Court finds that Dr. Gritzka's addendum does not undermine the ALJ's decision.

Second, Kohansby argues that the sit/stand option must be further defined. Dkt. 27 at 4. The Court, however, agrees with the Ninth Circuit that the sit/stand option is "most reasonably interpreted as sitting or standing 'at-will' . . . ." *Buckner-Larkin v. Astrue*, 450 Fed. Appx. 626, 628 (9th Cir. 2011).

Therefore, the Court having considered the R&R, Kohansby's objections, and the remaining record, does hereby find and order as follows:

(1) The R&R is **ADOPTED**;

(2) The ALJ's decision is **AFFIRMED**; and

(3) This action is **DISMISSED**.

Dated this 3rd day of September, 2014.

BENJAMIN H. SETTLE
United States District Judge